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UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
LOS ANGELES DIVISION

In re

Case No. 2:14-bk-17829-VZ

JOSE JUAN ROCHA,

CHAPTER 13

Debtor(s).

STIPULATION RESOLVING DEBTOR'S  
COMPLAINT TO DETERMINE THE  
VALIDITY OF LIEN ON REAL ESTATE

JOSE JUAN ROCHA,

Plaintiff(s),

vs.

20 THE BANK OF NEW YORK MELLON fka  
21 The Bank of New York, as successor Trustee  
22 To JPMorgan Chase Bank, N.A., as Trustee on  
behalf of the Certificateholders of the CWHEQ  
23 Inc., CWHEQ Revolving Home Equity Loan  
Trust, Series 2006-B,

Defendant.

Adversary No. 2:14-ap-01249-VZ

Hearing:

Date: 6/26/14

Time: 10:00 a.m.

Place: U.S. Bankruptcy Court  
255 E Temple St,  
Courtroom 1368  
Los Angeles, California

This Stipulation is entered into by and between Jose Juan Rocha (hereinafter referred to as "Debtor"), by and through their attorney of record, Michael R. Totaro; and Defendant BANK

1 OF AMERICA, N.A. as a servicing agent on behalf of The Bank of New York Mellon fka The  
2 Bank of New York, as Trustee for the Certificateholders of CWABS, Inc., Asset-Backed  
3 Certificates, Series 2006-8 (hereinafter referred to as "Creditor"), by and through its attorney of  
4 record, Prober and Raphael, A Law Corporation.

5 **RECITALS**  
6

7 Debtor is the maker of a Note in favor of Creditor, dated January 19, 2006 in the original  
8 principal amount of \$82,600.00 ("Note"), which is secured by a Deed of Trust encumbering the  
9 real property at **6778 Kings Branch Drive South, Mobile, Alabama 36618** (the "Subject  
10 Property"). The Note and Second Deed of Trust are collectively referred to hereinafter as the  
11 "Subject Loan".

12 A. On or about April 23, 2014, Debtor filed a voluntary petition under Chapter 13 of the  
13 Bankruptcy Code in the United States Bankruptcy Court for the Central District of California  
14 (Los Angeles), and was assigned Case No. 2:14-bk-17829-VZ.

16 B. On or about April 28, 2014, Debtor filed a Complaint To Determine The Validity Of  
17 Lien On Real Estate (Lien) of The Bank of New York Mellon fka The Bank of New York, as  
18 Trustee for the Certificateholders of CWABS, Inc., Asset-Backed Certificates, Series 2006-8  
19 against Creditor, praying that the court find Creditor's Deed of Trust encumbering the Subject  
20 Property be avoided and that its claim be paid as an unsecured.

22 **THE PARTIES HEREBY STIPULATE AND AGREE AS FOLLOWS:**

23 1. Creditor's claim shall be allowed as a non-priority general unsecured claim and shall be  
24 paid as such in accordance with the Debtors' Chapter 13 Plan;  
25 2. The avoidance and release of Creditor's Second Deed of Trust is contingent upon  
26 the Debtors' completion of their Chapter 13 plan and the Debtors' receipt of a Chapter 13  
27  
28

1 discharge;

2 3. Upon receipt of the Debtor's Chapter 13 discharge and completion of their Chapter 13  
3 Plan, the Order avoiding lien may be requested and obtained by Debtor from the Bankruptcy  
4 Court without further notice and recorded at the County Recorder's Office.

5 4. Creditor shall retain its lien for the full amount due under the Subject Loan should the  
6 Subject Property be sold or should a refinance take place prior to the Chapter 13 Plan  
7 completion and entry of a Chapter 13 Discharge.

8 5. Creditor shall retain its lien for the full amount due under the Subject Loan in the event  
9 of either the dismissal of the Debtors' Chapter 13 case or the conversion of the Debtors' Chapter  
10 13 case to any other Chapter under the United States Bankruptcy Code; and

11 6. In the event that the property is destroyed or damaged, pursuant to the mortgage, Creditor  
12 is entitled to its full rights as a loss payee with respect to the insurance proceeds and has a  
13 security interest in such proceeds up to the entire balance due on the mortgage.

14 7. Each party shall bear their own attorneys' fees and costs incurred in the present case and  
15 adversary case number 2:14-ap-01249-VZ.

16 IT IS SO STIPULATED:

17 DATED: 6/2/14

18 PROBER & RAPHAEL, A LAW CORPORATION

19 20  
21 By Melissa Vermillion  
22 MELISSA VERMILLION, ESQUIRE #241354  
23 Attorneys for Defendant

24 DATED: 6-3-14

25 By Michael R. Totaro  
26 MICHAEL R. TOTARO, Esquire #\*  
27 Attorney for Debtors

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

Prober & Raphael, A Law Corporation, 20750 Ventura Boulevard, Suite 100, Woodland Hills, CA 91364

A true and correct copy of the foregoing document entitled (specify): STIPULATION RESOLVING DEBTOR'S COMPLAINT TO DETERMINE THE VALIDITY OF LIEN ON REAL ESTATE will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On 5/21/2014, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Nancy K Curry (TR) ecfnc@trustee13.com  
Michael R Totaro tsecfpacer@aol.com, G3899@notify.cincompass.com  
United States Trustee (LA) ustregion16.la.ecf@usdoj.gov

Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On 6/16/2014, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served):** Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on \_\_\_\_\_, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

6/16/2014

Tina Gaboyan

Date

Printed Name

/s/ Tina Gaboyan

Signature

This form is mandatory. It has been approved for use in the United States Bankruptcy Court for the Central District of California.

1  
2: **SERVED BY U.S. MAIL**

3 Honorable Vincent P. Zurzolo  
4 U.S. Bankruptcy Court  
5 255 E. Temple St. Suite 1360  
6 Los Angeles, CA 90012  
7 Judge's Copy

8 Jose Juan Rocha  
9 1854 Morrison St  
10 Pomona, CA 91766-5165

11 Michael R Totaro  
12 Totaro & Shanahan  
13 POB 789  
14 Pacific Palisades, CA 90272

15 Nancy K Curry (TR)  
16 700 S Flower Street, Suite 1215  
17 Los Angeles, CA 90017

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This form is mandatory. It has been approved for use in the United States Bankruptcy Court for the Central District of California.